

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LEONARD E. ECHOLS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3796

Decision No. CU - 4343

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LEONARD E. ECHOLS, and is based upon the asserted loss of \$2,000.00 sustained in connection with the ownership of a stock interest in Graphic Arts Supply, S.A. Claimant has been a national of the United States since birth.

This is the first claim involving Graphic Arts Supply, S.A. The Commission notes that several other claims have also been filed with it by other stockholders; thus this decision may, where applicable, serve as a precedent in the determination of those other claims.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1964)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record contains stock certificate No. 13 issued to the claimant on or prior to August 8, 1961, totalling 50 shares of capital stock in Graphic Arts Supply, S.A. On the basis of all the evidence of record, including the foregoing certificate, the Commission finds that the claimant owned, continuously from the date of loss to the presentation of this claim, 50 shares of the capital stock issued by Graphic Arts Supply, S.A.

Graphic Arts Supply, S.A. was incorporated in Cuba and thus would not qualify as a national of the United States under Section 502(1)(B) of the Act which defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The Commission has decided that in such instances stockholders who qualify as United States nationals under the Act may claim the value of their stock in Cuban corporations which have been nationalized or otherwise taken by the Government of Cuba.

On August 8, 1961, Graphic Arts Supply, S.A. was intervened by the Government of Cuba and the Commission so finds.

The Commission concludes that as a result of the intervention by the Government of Cuba of Graphic Arts Supply, S.A., claimant suffered a loss within the meaning of Title V of the Act.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the

property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Claimant submitted a balance sheet dated December 31, 1957, statement of profit and loss dated December 31, 1957, statement to stockholders accompanying the December 31, 1957 balance sheet, and a letter from Chandler Echols, president of Graphic Arts Supply to the stockholders, dated June 3, 1958. The December 31, 1957 balance sheet reflects the following:

A S S E T S

CURRENT ASSETS

Cash on hand and in Banks		\$ 3,152.83	
Notes receivable	\$58,916.59		
Less: Discounted	<u>10,806.87</u>	48,109.72	
Accounts Receivable		10,665.33	
Advances to Officers		660.45	
Advances to Employees		127.79	
Inventory		35,819.92	
Merchandise in Transit		5,157.35	
Unpaid Shares		<u>1,000.00</u>	\$104,693.39

NOTES RECEIVABLE LONG TERM		41,180.92
----------------------------	--	-----------

DEPOSITS		220.00
----------	--	--------

FIXED ASSETS

Machinery and Equipment	\$ 2,291.39		
Reserve for Depreciation	<u>85.41</u>	\$ 2,205.98	
Office Furniture and Fixtures	\$ 2,343.63		
Reserve for Depreciation	<u>184.56</u>	2,159.07	
Warehouse Equipment and Fixtures	\$ 1,504.89		
Reserve for Depreciation	<u>42.58</u>	1,462.31	
Truck		1,075.00	
Company's Sign		500.00	
Tools and Implements		<u>241.90</u>	7,644.86

DEFERRED CHARGES

Duties Merchandise on Consignment	\$ 1,785.96		
Organization Expenses	14,998.21		
Unmatured Insurance Premiums	<u>142.50</u>		<u>16,926.67</u>

TOTAL ASSETS			<u>\$170,665.84</u>
--------------	--	--	---------------------

LIABILITIES

CURRENT LIABILITIES

Notes Payable	\$ 39,287.24	
Bank Loans	5,000.00	
Accounts Payable	27,256.69	
Salaries Payable	5,665.35	
Taxes Payable	747.14	
Advances from Shareholders and Officers	300.00	
Miscellaneous Expenses Payable	<u>1,656.27</u>	\$ 79,912.69

NOTES PAYABLE LONG TERM 27,004.75

DEFERRED CREDITS 103.00
\$107,020.44

CAPITAL

Authorized		\$500,000.00
Less: Unissued shares	\$450,000.00	
Issued and not subscribed shares	<u>7,800.00</u>	<u>457,800.00</u>
Shares subscribed		\$ 42,200.00

Surplus:

Carried from 1957	\$ 3,298.93
Less: Charges	<u>499.41</u>
	\$ 2,799.52

Profits for this period \$ 18,645.88 21,445.40 63,645.40

TOTAL LIABILITIES AND CAPITAL \$170,665.84

Neither the claimant nor any of the stockholders have been able to supply the Commission with information other than what has been recited supra concerning the net worth of Graphic Arts Supply, S.A., or shares of stock outstanding as of August 8, 1961, the date of loss. In the absence of evidence to the contrary the Commission finds that at the time of loss there were 422 shares of capital stock outstanding.

All items shown in the balance sheets are deemed proper in this case because of the nature of the business in question. For example, although in some cases organizational expenses are not allowable, here they were incurred in creating an operation which apparently was continued

as such by the Cuban Government and it received the benefits thereof. In the statement To The Stockholders of Graphic Arts Supply Co., S.A. which accompanied the December 31, 1957 balance sheet, it appears that \$5,665.35 carried under liabilities as 'Salaries Payable' represents amounts in excess of salaries and should be considered as part of the surplus. Thus these items should and will be taken into account in arriving at the net worth here.

The calculation of net book worth for the purposes of this decision is as follows:

Capital	\$42,200.00
Surplus (includes \$5,665.35 listed under liabilities as 'Salaries Payable')	<u>27,110.75</u>
Net Worth	\$69,310.75

The Commission therefore finds a net book value of \$69,310.75 was available for distribution at the time of loss, among the 422 shares of capital stock issued by Graphic Arts Supply, S.A., or a net book value per share of capital stock of \$164.2435.

Accordingly, in the instant claim, the Commission finds that claimant suffered a loss in the amount of \$8,212.18 within the meaning of Title V of the Act, as a result of the intervention of Graphic Arts Supply, S.A. by the Government of Cuba on August 8, 1961.

The Commission had decided that in certification of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

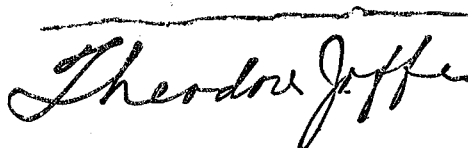
CU-3796

CERTIFICATION OF LOSS

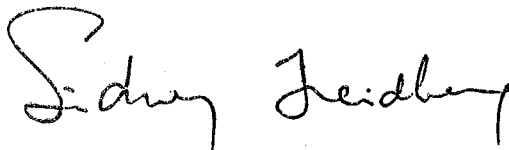
The Commission certifies that LEONARD E. ECHOLS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eight Thousand Two Hundred Twelve Dollars and Eighteen Cents (\$8,212.18) with interest at 6% per annum from August 8, 1961 to the date of settlement.

Dated at Washington, D.C.,
and entered as the Proposed
Decision of the Commission

7 JAN 1970



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

CU-3796